



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 26, 2019

Ms. Kristie L. Lewis
Staff Attorney
Houston Police Department
1200 Travis, 21st Floor
Houston, Texas 77002-6000

OR2019-17474

Dear Ms. Lewis:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 772061 (ORU No. 19-03360).

The Houston Police Department (the "department") received a request for recordings and metadata of certain 9-1-1 calls and radio communications during specified time periods, and certain CAD reports and call slips during specified time periods.¹ You claim some of the submitted information is excepted from disclosure under section 552.108 of the Government Code.² We have considered the claimed exception and reviewed the submitted information.

You inform us some of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2019-15384

¹You state, and provide documentation demonstrating, the department sought and received multiple clarifications of the information requested. See Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²Although the department also raises section 552.101 of the Government Code, you provide no arguments explaining how this exception is applicable to the information at issue. Therefore, we assume the department no longer asserts this exception. See Gov't Code §§ 552.301, .302.

(2019). In Open Records Letter No. 2019-15384, we determined, with the exception of basic information, which must be released, the department may withhold the information at issue under section 552.108(a)(1) of the Government Code. We have no indication the law, facts, or circumstances on which Open Records Letter No. 2019-15384 was based have changed. Accordingly, the department may continue to rely on Open Records Letter No. 2019-15384 as a previous determination and withhold or release the information at issue in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will address your argument against disclosure of the remaining information.

Next, we note you have only submitted a dispatch recording in response to the present request for information. To the extent any additional information responsive to the request exists and was not previously ruled on in Open Records Letter No. 2019-15384, we assume the department has released it. If the department has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

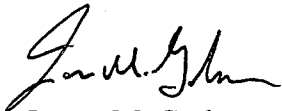
Section 552.108(a) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information you indicated relates to an open and active criminal investigation. Based upon this representation, we conclude the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, we conclude section 552.108(a)(1) is applicable to the information at issue, and the department may withhold the information you indicated under section 552.108(a)(1) of the Government Code.

In summary, the department may continue to rely on Open Records Letter No. 2019-15384 as a previous determination and withhold or release the information at issue in accordance with that ruling. The department may withhold the information you indicated under section 552.108(a)(1) of the Government Code. The department must release the remaining information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James M. Graham
Assistant Attorney General
Open Records Division

JMG/jxd

Ref: ID# 772061

Enc. Submitted documents

c: Requestor
(w/o enclosures)